

1 one --

2 A. [DEAK] No.

3 Q. -- for a quicker implementation?

4 A. [DEAK] That would be the only reason.

5 Q. Based on my understanding of Bell
6 Atlantic's activation schedule, if we were to
7 implement virtual pooling within a 90-day period,
8 all of the requested codes would have already been
9 activated. Is that your understanding?

10 A. [DEAK] I don't know.

11 Of the five hundred and some that
12 we're aware of, yes, they would be.

13 Q. I assume based on your earlier statements
14 that you are assuming the Department has the
15 authority to reclaim unused codes?

16 A. [DEAK] Well, the guidelines actually
17 stipulate that unused codes can be reclaimed.
18 I think certainly the Department could emphasize
19 that.

20 BY COMMISSIONER VASINGTON:

21 Q. That is a power that NANPA has right now?

22 A. [DEAK] NANPA really doesn't have any
23 enforcement authority other than what is provided
24 in the guidelines, which really isn't enforcement

1 authority. I think regulators have the enforcement
2 authority. There are statements in the guidelines
3 that obligate the administrator to seek out the
4 return of unused numbering resources, but our
5 experience has been that if an entity does not wish
6 to give up a numbering resource, there is very
7 little that the NANPA can do about it or wants to
8 do about it. And if a situation, which I can't
9 recall of any right now, but if a situation were to
10 arise where a resource must be given back, most
11 likely, if certainly it is a national resource, we
12 would go to the NANC or to the FCC. We have no
13 enforcement authority at all.

14 BY MR. ISENBERG:

15 Q. Are you aware of whether the FCC has ever
16 issued any statement regarding reclamation of
17 codes?

18 A. [DEAK] Not to my knowledge.

19 Q. Is the FCC currently investigating
20 virtual pooling?

21 A. [DEAK] The concept of virtual pooling,
22 which has several different definitions, is on the
23 agenda for the Numbering Resource Optimization
24 Working Group. Whether it actually agrees exactly,

1 to project what would be the impact of thousands
2 block pooling on Massachusetts NPAs. Forecasting
3 information is very essential.

4 Q. I understand that it is essential. But
5 let's say somebody comes in with a very rosy
6 scenario on their business prospects and says we're
7 going to be the best company that's ever entered
8 the market and get a million customers in the first
9 two months. Would that just be taken at face value
10 and then factored into the analysis that the
11 numbering administrator does?

12 A. [DEAK] Pretty much, yes.

13 Q. You also described some uncertainty about
14 how long area code relief could be delayed if
15 virtual pooling was implemented and you described a
16 couple of important pieces of information that you
17 would need in order to make that determination on
18 an accurate basis. Is that information that is
19 available to you now or is that information that
20 you would have to collect?

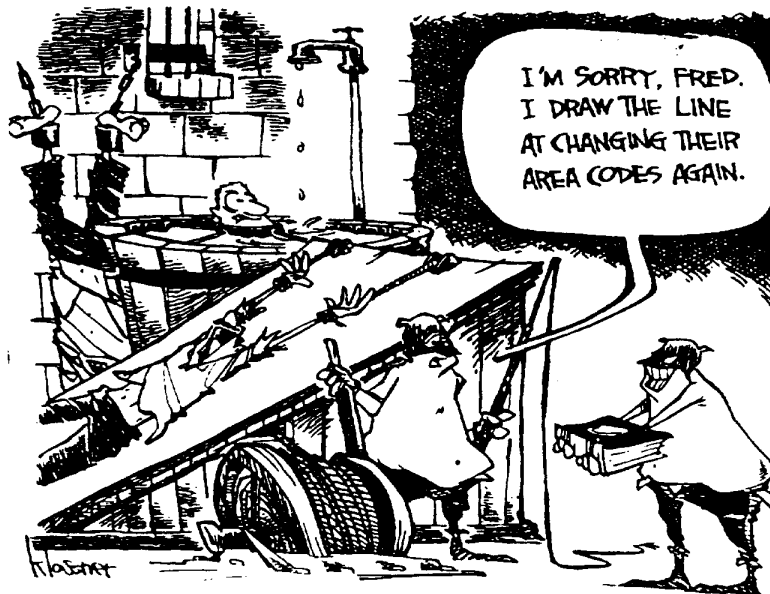
21 A. [DEAK] It would have to be collected.
22 It's highly proprietary and sensitive information.

23 Q. Let me just run down a list for a moment
24 for the record. The information that you would

Boston Globe



www.townonline.com/somerville



NEW AREA CODES: A LAUGHING MATTER? NOT REALLY.

Ex Parte: Summary of Oral Remarks
to Commissioners and Staff of the Federal Communications Commission
concerning FCC 99-122, NPRM Regarding NANP, June 18, 1999
Nancy Brockway, Commissioner, New Hampshire Public Utilities Commission

1. **The NPRM is an important step in the right direction.** Jeopardy of exhaust is imminent in many states, including New Hampshire. The FCC in the NPRM recognizes the inefficiency of the present numbering system, and the costs and hardship consumers have suffered as a result. The NPRM also proposes certain valuable steps to alleviate this problem. We welcome the initiative the FCC is taking to address these problems.

2. **The FCC should make it a fundamental goal of its numbering policy to save existing NPAs from exhaust.** The NPRM states the goals of the numbering system and of the NPRM proposals. Nowhere does the FCC state that avoiding exhaust and avoiding the need for imposing a new NPA is, or should be, a goal of the numbering plan. But it is precisely the imposition of a new NPA that is the consumer's main concern.

The FCC should make it an explicit, and key goal, to avoid the imposition of any new area code, unless no practical means can be implemented to avoid it. Doing so will in turn facilitate the extension of the NANP life. And avoiding the imposition of new NPAs can and should be done consistent with competitive neutrality.

3. **The NPRM ignores some potentially valuable tools to avoid NPA exhaust.** For example, while the NPRM discusses delegating authority to the states to *allow* UNP, the FCC does not discuss nor ask for comment on whether states should be given authority to *require* UNP.

4. **The NPRM properly recognizes that the industry cannot be asked to police itself.** As the NPRM rightly states, numbers are a public (and limited) resource. As the NPRM implies, the experience to date is that no industry participant, whether an incumbent or a prospective entrant, has a sufficient incentive to use numbers efficiently, and thus help avoid NPA exhaust. A third party *must* be empowered to enforce adherence to the guidelines at every level, and with some new tools.

5. **The FCC rightly recognizes the difficulty in asking a contractor to make tough resource allocation decisions; state commissions should be delegated the authority, under FCC guidelines.** Given staffing constraints, it makes sense for the FCC to delegate many functions to a NANPA, such as Lockheed-Martin/MIS. However, such a contractor cannot be expected to take vigorous, and thus controversial, enforcement action. The FCC can delegate functions requiring judgment calls and tough decisions to state commissions, within the FCC's competitive neutrality and other core policy parameters. The FCC can and should delegate functions such as optimization pilots and NPA exhaust prevention measures to the state commissions.

The FCC trusts the states to impose controversial new NPAs. It should trust the states to oversee number utilization matters, as well. The FCC should recognize that *the states have as much a need for the national numbering system to work smoothly as the FCC and the carriers*. The states will not allow an unworkable patchwork quilt to develop, and industry advocacy will provide a check on any such outcomes.

6. **The FCC should act quickly to avoid new and unnecessary NPAs in states now in jeopardy.** On TNP, and other issues needing industry action, the FCC should make clear its drive to prevent the imposition of new area codes. The FCC should also act quickly to conclude its proceedings, where they are a condition for industry to implement needed procedures. And the FCC should immediately delegate needed emergency authority to states at risk of imminent exhaust.

MAINE FACT SHEET

*Meeting with FCC
June 18, 1999*

WHAT THE MPUC NEEDS FROM THE FCC

⇒ Immediate Needs

- ◆ Authority to enforce current Central Office Code Assignment Guidelines (Guidelines), especially as to wireless carriers. This would allow the MPUC to:
 - Order return of unused and improperly obtained codes
 - Review code request worksheets and refuse codes to carriers who do not meet current standards
 - Perform audits
- ◆ Authority to ration codes prior to making a decision to implement a new code

⇒ Near Term

- ◆ Authority to begin thousand block pooling
- ◆ Authority to establish and enforce number utilization standards
- ◆ Authority to require carriers to participate in *ad hoc* unassigned number porting for rate centers with low utilization rates

SNAPSHOT OF THE 207 AREA CODE

- ⇒ NANPA's forecasted exhaust date: 4th quarter of 2001 (4Q2001)
- ⇒ 571 (of 792) central office codes (NXXs) assigned as of 6/1/99
 - 70% assigned to ILECs
 - 15% assigned to Wireless
 - 15% assigned to CLECs
- ⇒ **3,797,488 unused** numbers available within assigned codes, overall utilization rate of **33%**
 - 40% ILEC utilization rate
 - 33% wireless utilization rate
 - 1.6% CLEC utilization rate

- ⇒ Over **1,714** clean thousand blocks within currently-assigned codes, **622** in rate centers that will be LNP-capable by September 1999

MPUC NUMBER CONSERVATION EFFORTS

- ⇒ NANPA's growth projections for Maine:

	1.7 per month growth
	<u>3.3 per month new entrant growth pool</u>
Total:	5 per month/60 per year

- ⇒ **Total Codes Save By MPUC Since January: 114**

CLEC Application Process:	75
Staff Review of Code Requests:	8
Staff Review of Utilization Data	4
Carrier Revision of Forecast:	27

- ⇒ **CLEC Application Process**

Since March, MPUC has certified facilities-based CLECs on an exchange basis rather than granting blanket statewide authority (which could allow a single carrier to request up to 220 initial codes at once)

- Carrier must present evidence that it will have operational facilities in rate center within 6 months
- Carrier discusses growth plans with Staff which allows for building a cooperative relationship, the sharing of relevant information, and better planning

Process has resulted in **savings of at least 75 codes**

- ⇒ **Staff Review of Code Requests**

Since January, NANPA has sent Staff an e-mail notification of each code request it has received

- NANPA lists the name of the carrier and the rate center(s) for which the code(s) is (are) requested.
- Staff has 5 days to respond to NANPA to indicate whether carrier is properly certified for the rate center(s) requested
- If carrier is certified but Staff has concerns regarding the request, Staff contacts carrier directly for further information
- Staff notifies NANPA of all calls and information exchanged

The review process, especially direct Staff contact with carriers, has resulted in **savings of 8 codes** because carriers voluntarily withdrew requests. Examples:

- An authorized carrier which had requested 6 additional codes in a rate center where it already had multiple codes with low utilization rates discovers that the request was for other states and mistakenly labeled for a rate center in Maine; **6 codes saved**
- An authorized carrier unfamiliar with Maine exchanges requests a duplicative code; after Staff discussion, carrier withdraws request; **1 code saved**
- An authorized carrier with several subsidiaries requests duplicate codes for same rate center; after Staff discussion, carrier withdraws request; **1 code saved**

⇒ **Staff Review of Utilization Data**

In October, the Maine Telecommunications Industry agreed to provide the MPUC with number utilization data every six months. Staff reviews the data to ensure that carriers are using codes according to Guidelines.

- Staff discovered 4 codes assigned to a carrier which had not been activated within 6 months as required by the Guidelines
- After discussion with Staff, **carrier returned all 4 codes**

⇒ **Staff Review of COCUS Forecasts**

In October and February, Staff requested that carriers provide copies of all COCUS forecasts. Staff reviewed all forecasts.

- Between October and February 6 carriers voluntarily revised their forecasts downward by **27 codes** through 2002.
- Average US carrier participation in 1999 COCUS: 60%
Maine's participation: **84%**
 - Average number of US codes represented: 64%
 - Maine codes represented: **94%**

STATE OF NEW HAMPSHIRE



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December 14, 1998

Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 12th Street, SW
Washington D.C. 20554

RE: NSD-L-97-42 In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Cods 412,610, 215 and 717 (CC Docket No. 96-98

Dear Secretary Salas:

Enclosed for filing in the above matter please find one original and five copies of the New Hampshire Public Utilities Commission's Petition for Reconsideration of the FCC's September 28, 1998 Opinion. Please be kind enough to stamp one copy and return it to us in the enclosed envelope.

Sincerely,


E. Barclay Jackson, Esq.

EBJ/hs
Encl.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petition for Declaratory Ruling and)	
Request for Expedited Action on)	NSD File No. L-97-42
July 15, 1997 Order of the Pennsylvania)	
Public Utility Commission Regarding)	
Area Codes 412, 610, 215 and 717)	
)	
Implementation of the Local Competition)	
Provisions of the Telecommunications Act)	CC Docket No. 96-98
of 1996)	

PETITION FOR RECONSIDERATION

The New Hampshire Public Utilities Commission (NHPUC) respectfully requests that the FCC reconsider its September 28, 1998 Memorandum Opinion and Order on Reconsideration (Opinion) in the above-captioned matter. The NHPUC requests that the FCC (1) remove the

condition in Paragraph 24 that requires a state commission to decide upon a specific form of area code relief before it is allowed to impose central office code (NXX) conservation measures, (2) authorize state commissions to implement NXX conservation measures that do not interfere with the FCC's guidelines for traditional area code relief, and (3) clarify the authority state commissions have to order return of NXXs. The NHPUC joins in the arguments presented in the Petitions for Reconsideration by the Maine Public Utilities Commission (MPUC) and the Massachusetts Department of Telecommunications and Energy in this matter.

The Rhode Island Public Utilities Commission joins New Hampshire in requesting the FCC to reconsider its Opinion. Although the specific facts differ somewhat, Rhode Island agrees that consumers will benefit by a number conservation process that avoids the premature imposition of new area codes.

I. BACKGROUND

The FCC's Opinion, issued September 28, 1998 in response to a petition for declaratory ruling on a Pennsylvania Public Utility Commission order regarding four Pennsylvania area codes, concluded *inter alia* that the following restrictions apply to states' ability to address area code exhaust. (1) State commissions are authorized by the FCC to order NXX code conservation measures only in conjunction with traditional area code relief decisions and only if the industry is unable to reach consensus on a rationing plan to extend the life of an area code. (2) States may implement experimental number conservation efforts only if the FCC's Common Carrier Bureau approves such efforts and grants appropriate additional authority to the states.

The FCC's Order made clear that it retains sole authority for numbering administration, including NXX code allocation and assignment. The FCC confirmed states'

limited authority to introduce new area codes via geographic split, boundary realignment, or overlay¹. The FCC discussed three main issues: (1) a need for national uniformity and parity in number conservation methods, (2) a need to insure that states address area code relief in timely fashion, and (3) the explicit assignment of numbering authority to the FCC and its appointed North American Numbering Plan Administrator (NANPA).

II. ARGUMENT

A. The FCC's Opinion is contrary to the public interest as it causes the imposition of new area codes prior to actual need, thus burdening customers with unnecessary costs and confusion.

On November 6, 1998, NANPA officially declared New Hampshire's 603 area code in "extraordinary jeopardy." As a result, New Hampshire NXXs are now being rationed at a rate of 3 per month in order to insure the area code is not exhausted before a new area code can be introduced, which is projected for the fourth quarter of 2000. If the NHPUC had been authorized to impose conservation measures which could delay jeopardy, New Hampshire might never have needed to plan for a new area code. Certainly the exhaustion of area code 603 would be delayed by some years, during which time technology may very well obviate the need for new area codes. The NHPUC suggests that its close understanding of state conditions will enable better allocation of whatever new numbering resource may be developed. In light of the experience with new area codes of our sister state Massachusetts, recounted in its Motion for Reconsideration filed October 27, 1998, the NHPUC sees a need for state conservation authority.

¹A new area code can be implemented via an overlay, assigning the new area code to new customers throughout the current area code, or via a geographic split, assigning the new area code to all of the customers within a specific geographic region of the state. A boundary realignment shifts the boundary between two adjacent area codes, inapplicable to New Hampshire which has only one area code.

State commissions are in the best position to develop NXX conservation measures to implement in order to extend the longevity of an area code. State commissions, as recognized by the FCC at ¶¶ 9 and 21 of the Opinion, have a unique understanding and familiarity with local circumstances, being much closer to particular in-state needs and concerns.

The circumstances in New Hampshire provide a cogent example of why it is important for the FCC to authorize state commissions to implement conservation measures early. In New Hampshire, despite the NANPA's declaration of extraordinary jeopardy, enough numbers exist to avoid area code exhaust. New Hampshire has fewer than 750,000 active wirelines in service and fewer than 1.2 million citizens. As the FCC is aware, a single area code like New Hampshire's 603 contains approximately 7,600,000 usable telephone numbers. Each NXX within an area code contains 10,000 telephone numbers. The problem is that NXXs are assigned in full 10,000 number blocks. As a result of current practices, there may be as many as 1.5 to 3 million unused numbers in the 603 area code. Furthermore, assigned NXXs may contain at least as many unused numbers because competitive providers obtain NXXs in multiple if not all New Hampshire exchanges and serve far fewer customers. Bell Atlantic, the Regional Bell Operating Company, serves many customers but provides multiple NXXs per community.² Thus, a large quantity of unused numbers within untainted number blocks exists for use in number conservation efforts and when number pooling becomes technically feasible in the near future.

Introducing new area codes causes significant disruption and expenses to consumers. Businesses incur high costs to change company letterhead, documents, vehicles, and advertisements. All citizens undergo a period of adjustment. Requiring consumers to incur these expenses unnecessarily when measures are available to avoid them conflicts with the NHPUC's

²For example, Portsmouth, a city of 27,000, has six NXXs using up 60,000 numbers.

state legislative mandate to protect consumer interests. The NHPUC therefore urges the FCC to take advantage of our and other states' ability to protect our consumers' interests.

The NHPUC has been working hard for several years to insure the development of local competition. The NHPUC has no motive to use numbering resources anti-competitively and can implement number conservation efforts non-discriminatorily. Conversely, industry members, to whom the FCC has given authority to establish conservation measures, may have reason to use the resources anti-competitively. Some industry members are already well-supplied with unused numbers and will strive to keep that advantage. For that reason, it is unproductive to tie the state commission's hands for a period of time during which the industry is to reach consensus on rationing measures. Consumers will be better served by state initiated action, at least until national efforts are established.

The rational allocation of numbering resources prior to establishing new area codes would benefit both the development of competition and consumers. Requiring states to move forward with the implementation of a new area code before taking steps to conserve the existing area code will, in practice, impede the FCC's pro-competitive goals and unnecessarily harm consumers.

B. The FCC's Concerns can be addressed, without denying states the opportunity to protect state interests, by defining the parameters for approved number pooling and other conservation efforts.

The FCC Opinion indicates approval of a number pooling trial currently being conducted by Illinois. While granting Illinois continued authority because "the Illinois trial does not interfere with the operation of the guidelines that the Commission has established for

traditional area code relief,”³ the FCC’s Opinion denied other states permission to implement similar trials of conservation methods that similarly do not interfere with the guidelines. Instead, the FCC Opinion required states to apply to the FCC’s Common Carrier Board for such permission.⁴ By thus establishing an FCC proceeding for each state that wants to protect its citizens from unnecessary area code exhaust, the FCC has missed an opportunity to take advantage of state expertise and at the same time creating the uniformity and parity it deems necessary. The FCC, under its exclusive jurisdiction over numbering, could have enumerated for states the acceptable number conservation methods and manner of implementation.

The FCC has the information and ability to set the parameters for state number conservation efforts prior to NANPA’s declaration of jeopardy. Doing so would assist consumers without endangering competition or the smooth functioning of telecommunications services nationally. Therefore, the NHPUC requests the FCC to authorize state commissions to impose NXX conservation measures that, like the Illinois efforts, will not interfere with the FCC’s traditional area code relief guidelines.

Furthermore, enabling states to participate in the efficient use of NXXs will insure that states act in a timely fashion to implement area code relief. The fact that forecasting will reflect efficient use of NXXs rather than inefficient waste will not impair the accuracy of the forecasting. States will participate in traditional area code relief planning, as they have in the past, but with confidence that they are meeting their responsibilities to state consumers.

C. The Opinion is overbroad in its blanket denial of state authority to reclaim NXX codes.

³Opinion at ¶30.

⁴*Id.* at ¶31.

Paragraph 24 of the Opinion states that "state commissions do not have authority to order return of NXX codes or 1,000 number blocks to the code administrator." While it appears from the context of the Opinion that this statement is limited to code conservation-related orders, the language used in the Opinion is very broad and could be interpreted to mean that a state commission may never order the return of a code. Such a conclusion would unreasonably limit a state's ability to enforce its own rules and regulations regarding the provision of service within its boundaries. Carriers do sometimes wrongfully obtain and/or use numbering resources to the detriment of other properly certified and operating carriers and hence to the detriment of competition. The NHPUC agrees with the Maine PUC (MPUC) that state commissions need authority to enforce state rules and regulations regarding the provision of services within the state.

The NHPUC also agrees with the MPUC that the Industry Number Committee's Central Office Code Administration Guidelines (Industry Guidelines), which the Commission relies on, do not guarantee an effective and fair code allocation process. Pursuant to the Industry Guidelines, cases of improper acquisition and misuse of NXXs will be subject to a lengthy process involving industry consensus prior to referral to a regulatory body. The NHPUC contends that industry consensus in a newly competitive industry will be hard won, if at all, and very time consuming. The Industry Guidelines set no time lines so there is no guarantee that the NANPA would even get involved for months.

In the post-Act era, a state commission's role is often that of arbitrator between competitive carriers, rather than that of rate regulator. State commissions should be allowed to perform that function in regard to numbering infractions because states are in the best position to

police numbering infractions. The Industry Guidelines are incapable of performing that function effectively. For example, in New Hampshire as in Maine, carriers obtain many more NXX code telephone numbers than they intend to serve. For example, one carrier applied for 23 NXXs, i.e. for 230,000 telephone numbers, merely to enable start-up operations in the 23 local calling areas where operation is intended. Fortunately, the request appears to have been made subsequent to the NANPA jeopardy declaration and thus the wasteful allocation of numbers will not occur, but this example clearly demonstrates the problem of waste.

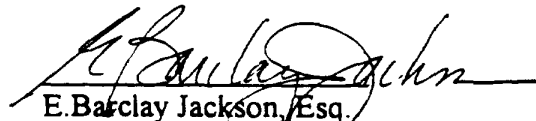
There are also New Hampshire carriers which obtain NXXs in order to serve Internet Service Providers customers toll free. These anti-competitive mis-uses of numbering resources must not be allowed to continue unabated during a prolonged industry process. The NHPUC contends that states are able to address the problems more quickly and more efficiently than NANPA and consistent with the federal aims. Therefore, the NHPUC requests that the FCC clarify the language in ¶24 and delegate the necessary additional state authority in the following limited manner. The NHPUC requests authority to reclaim NXXs obtained or used in violation of state rules, regulations, and policies.

III. CONCLUSION

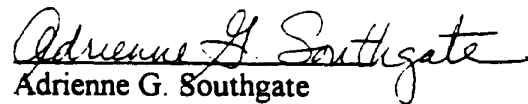
The NHPUC has taken steps to assist the industry to reach voluntary consensus regarding a plan for number conservation measures in New Hampshire. On December 22, 1998, the NHPUC will host an industry meeting for the purpose of achieving voluntary participation in such a plan. We anticipate in submitting that plan to the FCC for review and appropriate delegation of authority to implement the plan in the near future. Nonetheless, for the reasons described above, the NHPUC respectfully requests that the FCC (1) strike that portion of its

Opinion which restricts states from imposing number conservation methods until after a final decision is made regarding the implementation of a new area code, (2) delegate the necessary authority to states for implementing NXX conservation measures that do not interfere with the FCC's guidelines, and (3) clarify ¶ 24's overbroad language in order to permit states to reclaim improperly obtained or used codes.

Respectfully submitted,



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STATE OF NEW HAMPSHIRE

(603)

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April 2, 1999

Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals II
445 12th Street, S.W.
Washington, D.C. 20554

Re: Public Notice Nos. DA-99-461, DA-99-462, DA-99-638; NSD File Nos. L-99-19, L-99-21, and L-99-27; In the Matter of Petitions for Additional Delegated Authority to Implement Number Conservation Measures filed by the Massachusetts Department of Telecommunications and Energy, the New York State Department of Public Service, and the Maine Public Utilities Commission

Dear Secretary Salas:

Enclosed for filing in the above referenced matters please find one original and nine copies of the New Hampshire Public Utilities Commission's Comments concerning the Petitions for Additional Delegated Authority to Implement Number Conservation Measures in the states of Massachusetts, New York, and Maine, respectively. Please be kind enough to date stamp one copy and return it to us in the enclosed envelope.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. Barclay Jackson".

E. Barclay Jackson, Esq.

Encl.

CC: Al McCloud, Sr. Paralegal Specialist
Network Services Division
2000 M. Street N.W., Room 235
Washington, D.C. 20554

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

In the Matter of)	
)	
Massachusetts Department of)	
Telecommunications and Energy's)	
Petition for Waiver of Section 52.19 to)	NSD File No. L-99-19
Implement Various Area Code)	Public Notice No. DA-99-461
Conservation Methods in the 508, 617,)	
781, and 978 Area Codes)	
)	
New York State Department of Public)	
Service Petition for Additional)	NSD File No. L-99-21
Delegated Authority to Implement)	Public Notice No. DA-99-462
Number Conservation Measures)	
)	
Maine Public Utilities Commission's)	
Petition for Additional Delegated)	NSD File No. L-99-27
Authcrity to Implement Number)	Public Notice No. DA-99-638
Conservation Measures)	
)	
Implementation of the Local)	
Competition Provisions of the)	CC Docket No. 96-98
Telecommunications Act of 1996)	

COMMENTS OF THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

April 5, 1999

I. Introduction and Background

On February 17, 1999 and February 19, 1999, respectively, the Massachusetts Department of Telecommunications and Energy (MDTE) and the New York State Department of Public Service (NY-D.S.) filed petitions with the Federal Communications Commission ("FCC" or "Commission") requesting that the Commission grant additional delegated authority to implement a variety of number conservation measures.¹

The New Hampshire Public Utilities Commission (NHPUC) currently faces the prospect of the introduction of a new area code in our state and we are actively seeking to remediate the number exhaust problem by considering a combination of appropriate number conservation measures for which we will seek FCC approval. As such, the NHPUC applauds the efforts of the state regulatory agencies of New York, Massachusetts, and Maine (see *Maine Public Utilities Commission's Petition for Additional Delegated Authority to Implement Number Conservation Measures*, dated March 17, 1999) who share our concerns about the need for state regulatory agencies to have delegated to them appropriate authority to implement number conservation measures which could forestall the need for, and associated societal costs of, the implementation of a disruptive new area code within our respective jurisdictions.

¹ Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes, dated February 17, 1999 ("MDTE Petition"). New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, dated February 19, 1999 ("NY-DPS Petition").

II. Comments

The NHPUC agrees with the Massachusetts DTE petition's conclusion that, "Whether a given area code conservation method would unreasonably discriminate and unduly inhibit competition in Massachusetts can be best explored by state regulators on the basis of their knowledge of local market conditions." (MDTE Petition, p. 5) The NHPUC further concurs with MDTE that the rulings in the "Pennsylvania Opinion"² serve to severely restrict the authority of state commissions to conserve NXX codes and thereby extend the lives of existing area codes. The NHPUC filed a Petition for Reconsideration of the Pennsylvania Opinion on December 14, 1998, and awaits the FCC's ruling in this matter.

Further, the NHPUC believes that state commissions should be afforded as many number conservation options as possible in order to address the rapid depletion of numbering resources in our states and therefore affirmatively supports the requests of the NYDPS and MDTE to implement a variety of relief methodologies. In brief, the more tools there are in the toolbox, the easier it is to make repairs.

III. Conclusion

As previously stated, the NHPUC supports the instant petitions filed by the state

² Memorandum Opinion and Order, *In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 312, 610, 215, and 717*; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, FCC 98-224, NSD File No. L-97-42, issued September 28, 1998 (published November 16, 1998, Fed. Reg.) ("Pennsylvania Opinion").

agencies requesting additional authority to implement number conservation measures . In addition, the NHPUC believes that timeliness regarding area code policy and associated number conservation implementation is of paramount importance and therefore urges expedited decisionmaking by the Commission regarding the instant petitions, as well as any petitions that may be submitted to the FCC in the future. The NHPUC also urges the FCC to delegate to states the authority to implement as many alternative measures as possible, so that states may tailor their number conservation efforts to rectify the specific causes of area code exhaust in the most effective manner and remain responsive to the unique state-level impacts of these changes. Should the FCC ultimately determine that, for one or more of the options requested, state authority is denied, this should not be allowed to interfere in any way with a timely grant of authority to the state(s) to implement the remaining undisputed number conservation measures.

The NHPUC concludes that the FCC must take immediate action in the various dockets before it concerning number conservation and area code issues to facilitate state commission initiatives to resolve this problem. The combined energies of federal and state regulators could go far in achieving the desired result of a societally optimal resolution to the multiple area code crises taking place across the nation, if artificially erected jurisdictional barriers do not persist in undermining those efforts. Given the clear indication in the Telecommunications Act of 1996 that the FCC may delegate “all or any portion” of the FCC’s jurisdictional authority over number administration³, such barriers need not debilitate the

³ See NY-DPS Petition, p. 1, footnote 1.

process of number conservation. The NHPUC recognizes the FCC's previously expressed interest in working cooperatively with state commissions⁴ and sees the instant petitions as a prime opportunity for the FCC to work with states in such a manner. Therefore, the NHPUC respectfully requests that the Common Carrier Bureau grant the aforementioned requests for additional authority to implement number conservation measures.

⁴See Pennsylvania Opinion at paras. 30-31.

STATE OF NEW HAMPSHIRE



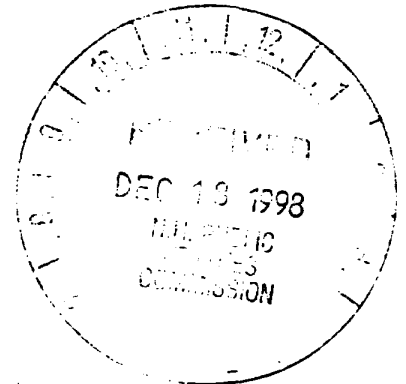
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December 18, 1998

Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, D.C. 20554



**Re: NSD File No. L-98-134, DA 98-2265 (Released November 6, 1998), Common Carrier
Bureau Seeks Comment on North American Numbering Council Report Concerning
Telephone Number Pooling and Other Optimization Measures**

Dear Secretary Salas:

Enclosed for filing in the above matter please find one original and nine copies of the New Hampshire Public Utilities Commission's Comments on North American Numbering Council (NANC) Report Concerning Telephone Number Pooling and Other Optimization Measures. Please be kind enough to date stamp one copy and return it to us in the enclosed envelope.

Sincerely,

A handwritten signature in cursive script, reading "E. Barclay Jackson".
E. Barclay Jackson, Esq.

EBJ/hs
Encl.

In the Matter of)
)
 COMMON CARRIER BUREAU)
 SEEKS COMMENT ON NORTH)
 AMERICAN NUMBERING)
 COUNCIL REPORT CONCERNING)
 TELEPHONE NUMBER POOLING)
 AND OTHER OPTIMIZATION)
 MEASURES)

COMMENTS OF THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

December 21, 1998

I. Introduction and New Hampshire Background

On November 6, 1998, the Common Carrier Bureau (CCB) of the Federal Communications Commission (FCC) issued Public Notice DA98-2265 seeking comment on the North American Numbering Council Report (NANC Report) Concerning Telephone Number Pooling And Other Optimization Measures. On the same date, NANPA sent to the New Hampshire Public Utilities Commission (NHPUC) a document which officially declared New Hampshire's 603 area code to be in "extraordinary jeopardy." The State of New Hampshire has approximately 800,000 access lines and 200,000 wireless subscribers among a population of about 1.2 million whereas there are approximately 7.7 million telephone numbers in the 603 numbering plan area (NPA) code.

On December 14, 1998, NHPUC submitted its *Petition for Reconsideration* responsive to the FCC's September 28, 1998 Memorandum Opinion and Order addressing area code issues before the Pennsylvania Public Utility Commission.¹ In our *Petition for Reconsideration*, the NHPUC requested that the FCC: (1) remove the condition in Paragraph 24 that requires a state commission to decide upon a specific form of area code relief before it is allowed to impose central office code (NXX) conservation measures; (2) authorize state commissions to implement NXX conservation measures that do not interfere with the FCC's guidelines for traditional area code relief; and, (3) clarify the authority state commissions have to order return of NXXs.

¹ See Memorandum Opinion and Order on Reconsideration, dated September 28, 1998, *In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215 and 717* (NSD File No. L-97-42), *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996* (CC Docket No. 96-98).

This confluence of events heightens our concerns about this critical telecommunications public policy issue. The NHPUC therefore respectfully submits the following comments on this Public Notice in order to offer our initial assessment of potential short term and long term solutions to those problems.

First and foremost, the NHPUC believes that time is of the essence. The need for individual states, including New Hampshire, to be able to move forward quickly and invoke any and all reasonable and prudent number conservation and optimization measures is obvious. If conservation measures are not quickly implemented, New Hampshire will face the irrational and harmful prospect of adding a new area code, with the associated costs to customers, in the face of a number-to-lines ratio of 8 to 1. Thus, any delays in decisionmaking in order to ferret out minutiae will come at a significant, though difficult to quantify, cost.

Second, as a general policy matter, the NHPUC supports the notion that more choice among competing number conservation options is better than less choice, as it gives states the maximum flexibility to implement those options that are best suited to the individual, perhaps even unique, conditions in that state. Therefore, we urge the FCC to adopt as many of the NANC's recommended options as the FCC finds viable. Having said this, we duly recognize the FCC's need to ensure a certain level of consistency of numbering across the entire geographic area served by the North American Numbering Plan (NANP).

II. Comments

Following review of the NANC Report, the NHPUC makes the following general recommendations, which are discussed in more detail in the paragraphs which follow:

- (1) that, as soon as possible, the FCC order the use of Thousand Number Block Pooling (TNP), as defined in Section 5 of the NANC Report;
- (2) that the FCC adopt Individual Telephone Number Pooling (ITN), as delineated in Section 4 of the NANC Report, as the long term solution and move forward to order service providers to become LNP-capable as soon as practicable; and,
- (3) that the FCC require revision of Industry Assignment (CO Code) Guidelines, particularly those addressing fill rate and inventory level requirements and reclamation of unused codes and thousand number blocks.

We also comment briefly on the other issues for which the FCC sought comment: Unassigned Number Porting (UNP), Expanded Local Calling Areas (ELCA), and Mandatory 10-digit dialing. In addition to those areas, we address questions relating to the role of NANPA, code sharing and transparent routing number assignment, the lack of useful cost data, and potential issues relating to public safety.

A. TNP

Of the fourteen options defined by NANC, the NHPUC believes that the most important short-term relief option targeted for comment is Thousand Number Block Pooling (TNP). As stated in the Executive Summary to the NANC Report, "Based on the work of the NRO-WG to date, as documented in this report, thousands block pooling is the only number

pooling alternative that potentially meets the FCC's December 1999 date for deployment of number pooling in LNP areas in accordance with a consistent nationwide plan." Given this statement, and the need for timely policy implementation, this alternative, above all others, urgently requires affirmative action by the FCC, including, but not limited to, ordering vendors to implement needed hardware and software changes in a timely fashion.² This solution dovetails with what we perceive to be the long-term solution to the numbering resources problem in the United States: Individual Telephone Number Pooling or ITN, as spelled out in Section 4 of the NANC Report.

B. ITN

While Thousand Number Block Pooling may mitigate the numbering problem in the short term, a long-term solution to the numbering problem needs to be identified. We concur generally with the view of the Colorado Public Utilities Commission that having a long term solution in place will enable the FCC to focus its efforts upon those short-term solutions which best fit with the long run solution chosen, but point out that maximum short-term flexibility is required for addressing imminent number exhaust situations. Though certain technological and other obstacles may exist at present, the long run solution is to move to Individual Telephone Number Pooling (ITN). ITN will fully utilize our numbering resources by assigning every assignable number in an NXX code before another NXX code is put into use. Thus, from a pure efficiency standpoint in terms of number utilization, ITN is

² The Executive Summary notes, "Some components of the pooling timelines require regulatory guidance. It should be noted that these implementation timeframes [for thousands block pooling] are dependent upon the availability of the required hardware/software changes from vendors." NANC Report Executive Summary, at 2.

unassailable as a solution to the numbering resource dilemma.

C. UNP

The NHPUC is intrigued by the possibilities afforded by Unassigned Number Porting (UNP) as an interim (i.e., jeopardy-avoiding) solution and believes that it may warrant further inquiry and approval as another temporary tool in the numbering conservation arsenal.

However, UNP should be endorsed only as an additional measure and not in place of TNP and ITN. The NHPUC has a concern that the costs may be too high relative to the short term benefits produced and that it would be difficult to find a neutral third party to govern sharing between providers.

D. CO Code Assignment Guidelines

The NHPUC generally supports the Comments of the Colorado PUC with respect to code assignment guidelines, but recognizes that such efforts, though necessary and useful, may not be implemented in time to resolve short term number exhaust issues in New Hampshire. The NHPUC believes that revision of the guidelines governing reclamation of unused codes should be a priority, as well revision of those guidelines addressing fill rates and inventory level requirements. Also, to the extent that number utilization audits and penalties can provide the correct incentives for service providers to implement LNP on a shorter timeline, such measures should be made effective without delay, with the caveat that they be applied in a competitively-neutral manner.

E. ELCA

Although the NHPUC has not fully analyzed the details necessary to implement Extended Local Calling Areas (ELCAs) between wireline providers in NH, we believe this

option may have merit. In order to provide statewide coverage in NH today, a CLEC needs 32 NXXs or, under the current system, 320,000 telephone numbers. With ELCA, certain CLECs, such as those who primarily provide service to Internet Service Providers (ISPs), would be able to provide comparable service by using only one NXX rather than 32. States should be allowed to consider ELCA among the available number conservation measures.

F. Mandatory 10-Digit Dialing

The NHPUC considered mandatory 10-digit dialing in protracted hearings in 1993 and chose instead to implement 7-digit dialing for all in-state toll calls.³ New Hampshire consumers, then and now, have a strong preference for avoiding mandatory 10-digit dialing. Where, as here, alternative conservation measures are available, imposing the inconvenience of mandatory 10-digit dialing should be a last resort.

G. The role of NANPA

The FCC has encouraged commenting parties to address, "what entity or entities should be assigned the responsibility of requesting number usage data from carriers and other code holders and whether the NANPA or some other entity should perform forecast analyses on such data." At the NHPUC, we have already begun an informal state survey of NXX code utilization, including a request to code holders and potential code holders (to the extent they are known) to provide a limited forecast of anticipated demand for new NXX codes through the year 2001.

More extensive efforts need to be undertaken at the national level. This important

³ DE 93-003, Order No. 20,938 Investigation into *New England Telephone's Long Distance Dialing Plan for New Hampshire*, 78 NHPUC 446 (1993).

information gathering and forecasting function should be assigned to an unbiased entity capable of efficient, accurate performance. State-specific information should then be shared fully with state commissions.

As presently constituted, NANPA relies on reaching industry consensus. Experience suggests it is usually difficult, if not impossible, to achieve such consensus because of the competing interests of the stakeholders involved in the process. Given this fact, the FCC should take whatever immediate steps are within its authority to accelerate the decisionmaking process at NANPA, either by implementing measures which redefine how NANPA operates or through any other measures which, collectively, lead to the desired information flow and policy implementation efficiency gains. Again, at the risk of emphasizing this point unnecessarily, there is an urgent need to make decisions soon enough to avoid absurd results.

Clearly, at a basic level, the role of NANPA in this process needs to be re-examined. The NHPUC is interested in learning more about the merits of the proposals put forth by the Colorado PUC regarding fundamental changes to the way in which NANPA operates.

H. Cost data and other information gaps

The recalcitrance of industry participants to release relevant cost data concerning implementation costs for Local Number Portability (LNP) and other number optimization measures should not be allowed to delay the process of implementing conservation measures. There are ways to protect the proprietary nature of the data provided and yet still reveal the underlying cost constraints required to bring about full LNP. Carriers and other relevant parties should not be allowed to hide behind the "proprietary" veil and thus thwart efforts to meet public needs in the most efficient manner possible. The bottom line is simply that the

implementation costs of each of the fourteen options examined in the NANC Report need to be better understood and there needs to be a reasonable process in place to reach an *accurate* determination of these costs.

I. Other

Though the FCC has not sought comment on code sharing and transparent routing number assignment at this time, the NHPUC believes these options deserve attention as stop-gap measures having significant potential either to forestall the need for the introduction of a new area code or else to mask its introduction from an end user perspective. Transparent routing, in particular, has the additional benefit of allowing for an overlay of a new area code, on a temporary basis, that is transparent (unknown) to the end user. This would allow states to move forward with implementation of other number conservation measures which could ultimately allow the transparent NPA to be returned to NANPA for redistribution. In the meantime, consumers and businesses are not faced with the clearly avoidable costs associated with a non-transparent area code change. The NHPUC views these solutions as having merit as interim tools with the understanding that, like the other measures discussed in the NANC Report, the implementation costs associated with these options require further elucidation.

One final area which merits attention is the issue of public safety. Here, the NHPUC applauds the effort of the Colorado Public Utilities Commission to focus attention on this important subject.

III. Conclusion

As stated previously, the NHPUC believes that timeliness regarding area code policy implementation is of paramount importance and urges quick action by the Commission. The

NHPUC also urges the FCC to order the implementation of as many alternative measures as are viable, while focusing its attention on those options that will provide immediate relief to states facing imminent area code exhaust due to inefficient allocation of numbering resources.

BOB SMITH
U.S. SENATOR
1-800-922-2230
IN NEW HAMPSHIRE
opinion@smith.senate.gov

United States Senate
WASHINGTON, DC 20510-2903

SELECT COMMITTEE ON
ETHICS
COMMITTEE ON ARMED SERVICES
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS

December 15, 1998



Douglas L. Patch
Chairman, Public Utilities Commission
State of New Hampshire
8 Suncook Lane
Concord, New Hampshire 03301-1201

Dear Douglas:

Thank you for writing to convey your concerns about a recent Federal Communications Commission decision you and your colleagues believe will hamper efforts to conserve telephone numbers. I welcome the opportunity to respond.

I share your view that New Hampshire and other states should not face unnecessary Federal barriers to enacting sensible conservation measures and I appreciate your thoughtful offer to keep my office apprised of future developments in this area. Please do keep me apprised of the status of the efforts -- described in your letter -- to craft a "consensual solution" addressing the current impasse. You may wish to direct future communications to Noah Silverman in my Washington, DC office or Mark Aldrich in my Manchester office.

Meanwhile, pursuant to your request, I have contacted the FCC's Commissioners and asked them to review the concerns you raised. It is my hope that such a review will be one step in the process of arriving at a solution that is acceptable to all interested parties.

OFFICE OF
BOB SMITH
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Page 2

Again, thanks for taking the time to contact me. I am pleased to hear your views and to respond. Should you have additional concerns, please do not hesitate to let me know.

With best wishes for the holidays and the New Year, I am

Sincerely yours,

A handwritten signature in cursive script that reads "Bob Smith". The signature is written in dark ink and is positioned above the typed name.

Bob Smith, U.S.S.

RCS\nls

Congress of the United States
House of Representatives
Washington, DC 20515-2901

January 4, 1999

Ms. Magalie Roman Salas, Director
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, D.C. 20554

Dear Ms. Salas:

We are writing to express our concern regarding the recent news that New Hampshire's 603 area code is now in jeopardy and the implications this may have for both residential consumers and businesses in the state. We are also writing to urge the Federal Communications Commission (FCC) to act favorably upon the recent recommendations made to the FCC by the New Hampshire Public Utilities Commission (NHPUC) and other state commissions relating to number conservation issues.

The NHPUC has recently filed a petition for reconsideration of the FCC's September 28, 1998 Opinion in which it requests that the FCC take the following actions: (1) remove the condition in Paragraph 24 of the September 28 Order that requires a state commission to decide upon a specific form of area code relief before it is allowed to impose central office code (NXX) conservation measures; (2) authorize state commissions to implement NXX conservation measures that do not interfere with the FCC's guidelines for traditional area code relief; and (3) clarify the authority state commissions have to order return of NXXs in order to make allocated but unutilized numbers available for redistribution.

The NHPUC believes it is critical for the FCC to avoid "tying the hands" of state commissions seeking to implement area code relief policies with the potential to have a serious impact on the date at which an area code may reach exhaustion. The request of the NHPUC is made, in part, to provide adequate justification for the FCC to take actions to avert that outcome. While the NHPUC recognizes the need for national uniformity with regard to numbering issues, we believe that need should not in any way compromise the equally compelling need to allow state commissions to implement policies that can ameliorate or otherwise stave off the need for a new area code.

New Hampshire has approximately one million access lines and wireless subscribers. Since each area code provides approximately 7.7 million numbers for distribution to the various telecommunications providers in the state, it is difficult to believe that New Hampshire could be facing imminent number exhaust in the 603 area code. According to the NHPUC, the process of

Ms. Magalie Roman Salas, Director
Federal Communications Commission
January 4, 1999
page 2

assigning numbers in blocks of 10,000, many of which may remain unused, deserves most of the blame for the number exhaust, and states such as New Hampshire need to be granted sufficient authority to take appropriate action.

We support the New Hampshire Public Utilities Commission's request as outlined in its December 14 Petition for Reconsideration for FCC approval to act to counter the exhaust of numbers in New Hampshire's 603 area code and ask that you give it your immediate and serious consideration.

Sincerely,



Bob Smith
United States Senator



John E. Sununu
Member of Congress